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LETTER DATED 7 DECEMBER 1993 FROM THE SECRETARY-GENERAL ADDRESSED TO THE PRESIDENT OF THE SECURITY COUNCIL

In my letter to the President of the Security Council (S/26689) of 3 November 1993, I expressed the concern that recent cases of arbitrary execution in El Salvador confirmed the need for the immediate implementation of the recommendations of the Commission on the Truth regarding the investigation of illegal groups. I stated that I had decided to instruct the Director of the Division of Human Rights of ONUSAL, with supplementary expert assistance as needed, to work with those concerned in order to assist the Government in implementing this recommendation. I added that the National Counsel for the Defense of Human Rights, within his constitutional responsibilities, could also play an important role in the investigation.

The Security Council approved my ideas about how the United Nations should help in such an investigation in its statement (S/26695) of 5 November 1993. From 8 to 15 November 1993 I dispatched a mission to El Salvador led by Under-Secretary-General Marrack Goulding. Extensive consultations were held with all concerned and considerable progress was made towards an agreement on the principles for the establishment of a Joint Group for the investigation of politically motivated illegal armed groups. In later consultations, it was agreed that the members of the Joint Group would be two independent representatives of the Government of El Salvador nominated by the President of the Republic, the National Counsel for the Defence of Human Rights and the Director of the Division of Human Rights of ONUSAL.

I have been informed by my Special Representative in El Salvador, Mr. Augusto Ramirez-Ocampo, that President Cristiani has now nominated the two independent Government representatives to the Joint Group. Mr. Ramirez-Ocampo has informed me that both persons nominated, Dr. José Leandro Echevarría and Dr. Juan Jerónomo Castillo, are independent lawyers of longstanding prestige and that he is satisfied that they are well qualified for the task at hand. In addition, the nominations have the approval of the National Counsel for the Defence of Human Rights.

The text of the Principles for the establishment of the Joint Group is attached to this letter. The mechanism for the investigation of illegal armed groups has thus been duly conformed and may commence its work immediately.

I would be grateful if you would be kind enough to bring this information to the attention of the members of the Security Council.

(Signed) Boutros BOUTROS-GHALI

Annex

[Original: English/Spanish]

PRINCIPLES FOR THE ESTABLISHMENT OF A JOINT GROUP FOR THE INVESTIGATION OF POLITICALLY MOTIVATED ILLEGAL ARMED GROUPS

1. A Joint Group will be formed for the investigation of politically motivated illegal armed groups. The members of the Group will be the following:

(a) Two representatives of the Government of the Republic of El Salvador, nominated by the President;

(b) The National Counsel for the Defence of Human Rights;

(c) The Director of the Division of Human Rights of ONUSAL.

The participation of the National Counsel for the Defence of Human Rights and the Director of the Division of Human Rights of ONUSAL, will be without prejudice to their mandates under the Constitution of El Salvador and the San José Agreement, respectively.

2. The Joint Group will have its own institutional identity and its purpose will be to assist the Government in applying the recommendation of the Commission on the Truth with respect to carrying out an in-depth investigation into illegal armed groups. The definition of illegal armed groups will be that of the phenomenon described in the recommendations of the Report of the Commission on the Truth. The investigation will cover the activities of such groups from 16 January 1992, the date on which the Peace Accords were signed.

3. The Joint Group will have the following faculties:

(a) To organize, conduct and supervise a technical team composed of Salvadorian and foreign investigators of renowned competence, impartiality and respect for human rights.

(b) To present a report to the President of the Republic and to the Secretary-General of the United Nations which will include conclusions and recommendations and the reports received from the technical team. The report of the Joint Group will be public.

4. The Joint Group will endeavour to adopt its decisions by consensus. However, if this consensus is not reached, the case will be referred to the President of the Republic and the Secretary-General of the United Nations, for its resolution in a manner which will guarantee the effectiveness and credibility of the investigation.

5. The Joint Group and the technical team will have no jurisdictional functions and will work within a framework which will be:

(a) Autonomous;

(b) Impartial and apolitical;

(c) Confidential, except when criminal acts committed by individuals or groups are uncovered. In these cases, information regarding these criminal acts will be immediately referred to the attention of the Public Prosecutor, who will carry out the appropriate investigation.

6. The Joint Group will be established on 8 December 1993 and will have a mandate of six months period during which the members of the Joint Group will remain in office. At the end of its mandate, it will present the report referred to in paragraph 3 (b).

7. The Joint Group will have its own budget and an autonomous administration.

8. The Secretary-General of the United Nations will convey these Principles to the Security Council and will request from the Council a statement of support.